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June 28, 2013

Mr. Jeff S. Jordan Office of the General Counsel Federal Election Commission 999 E Street NW Washington, DC 20463

Re: MUR 6734

Dear Mr. Jordan:

We write on behalf of John Cooney ("Respondent") in response to the complaint filed by Citizens for Responsibility and Ethics in Washington ("CREW"), dated May 9, 2013 (the "Complaint") in the above-referenced matter. The Complaint alleges that Respondent exceeded the 2011-12 biennial aggregate limit on the amount that individuals can contribute to candidates for federal office. In fact, Respondent did not exceed this limit. It appears that several committees that received partnership contributions from the law firm in which the Respondent is a partner, Cooney & Conway, attributed contributions to him when they should have been attributed to his partners. Accordingly, the Commission should find no reason to believe that Respondent violated the Federal Election Campaign Act of 1971, as amended (the "Act"), as alleged; or otherwise use its discretion under Heckler v. Chaney, 470 U.S. 821 (1985), to dismiss this matter immediately.

Pursuant to 2 U.S.C. § 441a(a)(3)(A) and 11 C.F.R. § 110.5(b)(1)(i), individuals are currently limited in the total amount of contributions that they may make to federal candidates in an election cycle. Between January 1, 2011 and December 31, 2012, the limit was \$46,200.² The Complaint alleges that Respondent made \$47,500 in contributions to federal candidates in 2011 and 2012, exceeding the biennial limit by \$1,300. This is not the case.

¹ A challenge to the constitutionality of this restriction is currently pending before the U.S. Supreme Court. See McCutcheon, et al. v. FEC, U.S. Supreme Court (12-536).

² See Federal Election Commission, "Contribution Limits for 2011-2012," available at http://www.fec.gov/info/contriblimits1112.pdf.

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Respondent is a partner in Cooney and Conway, a law partnership located in Chicago, Illinois (the "Partnership"). Respondent made individual federal political contributions in 2011 and 2012. The Partnership also made federal political contributions in 2011 and 2012, some of which were attributed to Respondent and some of which were attributed to other partners in the firm. In accordance with 11 C.F.R. § 110.1(e)(2), a partnership may make federal contributions, attributing the contribution among its partners in direct proportion to the amounts that each partner's profits are reduced. When a contribution by the Partnership, or a portion thereof, is attributed to a specific partner, the Partnership decreases the draw of that partner on the firm's profits by a corresponding amount.

Upon receipt of the Complaint, Respondent reviewed the contributions attributed to him on reports filed with the Commission and discovered that several contributions made by the Partnership, which should have been allocated amongst its partners in line with the amounts that their draws were decreased, appear to have been incorrectly reported as contributions from Respondent himself. For example, the Partnership made a contribution to Citizens for Rush by check dated May 16, 2011 in the amount of \$1,000. The Partnership reduced the draw of partner Kevin Conway by the entire amount of the contribution, and accordingly, the contribution should have been attributed to him.³ However, the contribution was reported as being made by Respondent.⁴ Similarly, the Partnership made a contribution to Friends of Tim Johnson by check dated November 1, 2011 in the amount of \$2,000. The Partnership reduced the draws of Robert Cooncy Jr., William Fahey, Kevin Conway and Respondent by \$500 each, and accordingly, the contribution should have been attributed among the four partners.⁵ However, the entire contribution was reported as coming from Respondent himself.⁶ Respondent has alerted these committees of this issue, and asked them to amend their relevant reports to reflect the appropriate attribution of the Partnership's contributions.

The Complaint counted the Partnership contributions made to Citizens for Rush and Friends of Tim Johnson as contributions from Respondent himself when asserting that Respondent exceeded the biennial aggregate contribution limit to candidates by \$1,300. Together, just these misattributed contributions add up to \$2,500 incorrectly counted towards Respondent's limit. With the proper attributions of these contributions in mind, it is clear that Respondent gave less than \$46,200 to federal candidates in 2011-12.

³ See Attachment A, Cooney and Conway Check Distribution Details, indicating that the contribution should be debited against the draw of Kevin J. Conway with the initials "KJC."

⁴ See Attachment B, pages from Citizen for Rush's July 15 Quarterly Report, 2011.

See Attachment C, Cooney and Conway Check Distribution Details, including the attribution formula.

⁶ See Attachment D, pages from Friends of Tim Johnson's January 31 Year-End Report, 2012.

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For the reasons stated above, we ask that the Commission find no reason to believe that Respondent violated 2 U.S.C. § 441a(a)(3)(A) and 11 C.F.R. § 110.5(b)(1)(i), or otherwise dismiss this matter immediately.

Very truly yours,

Marc E. Elias

Graham M. Wilson

Counsel to Respondent

Attachment B

FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS

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Attachment D

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FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS For An Authorized Committee

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